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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,744	08/24/2006	Devan Govender	05-713	6074
20306	7590	09/28/2009	EXAMINER	
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP			AHMED, MASUD	
300 S. WACKER DRIVE				
32ND FLOOR			ART UNIT	PAPER NUMBER
CHICAGO, IL 60606			3714	
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			09/28/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/550,744	GOVENDER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	MASUD AHMED	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 July 2008.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 9,11-15,17-26,28-32,34-42 and 45-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 9,11-15,17-26,28-32,34-42 and 45-54 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/17/08</u> .  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant has amended claims 45, 50 and canceled claims 43-44. Examiner has considered amendment to the claims very carefully and addressed them below.

### ***Response to Arguments***

1. Applicant's arguments filed on 07/30/2008 have been fully considered but they are not persuasive. Examiner respectfully disagrees with the applicant at least for the following:
  2. In response to the applicant's argument on "priori promotion credit awarded to the player....not available for immediate wagering", examiner respectfully disagrees because Acres discloses even on the Abstract that sign in points can be used for wagering, now whether they are conditional or not does not matter at this point because applicant's claim does not clearly claim immediate wagering without condition. It should be noted that by putting condition to the priori credits casino wants player to wager their own money before they use the free money, which in turn will prevents casinos from losing the bank incase player wins immediately with the free given money.
  3. Examiner has addressed the amended portion of the claims incorporating a new reference.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. **Claims 9, 11-15, 17-26, 28-32, 34-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres (U.S. 6712697).**

**Regarding claims 9 and 26,** Acres discloses a system for administering promotions associated with a wagering application in which a player purchases credit to make wagers on a game of chance (Col 4, Lines 35-55). Acres disclose:

a credit administration facility operable to maintain a credit account for the player wherein the credit administration facility is operable to automatically determine the balance of the credit account of the player as a function of any credit purchases made by the player, wagers made by the player and their

corresponding payouts, and any a priori promotion credit awarded to the player (Col 6, Lines 62-67; Col 7, Lines 1-7), it should be noted that the priori credit is awarded to the players immediately to be wagered on the machine (abstract) , the credit administration facility being instructable to display the balance of the credit account to the player on a display means (Figure 2; Col 7, Lines 1-7), wherein the credit administration facility is further operable to maintain a non cashable sub account corresponding to a portion of the player's credit account that is not redeemable for monetary value and to maintain at least one play through sub account for the player (Col 9, Lines 63-67; Col 10, Lines 1-9). However Acres is silent on disclosing non-cashable sub-account, from the disclosure of Acres we can make the determination that Acres makes distinction of player's cashable credits and non-cashable credits such as comp points that can be used towards meals or entertainment, therefore it would have been obvious to ordinary skilled artisan at the time of invention to separate the accounts to segregate cashable points or credits from non-cashable credits or points so that the facility and the player can easily make the distinction over players available credits.

**Regarding claims 11, 28,** in which the credit administration facility is instructable to display a balance of the non cashable sub account to the player on the display means (Figure 2; Col 7, Lines 3-7).

**Regarding claim 12, 29**, in which the credit administration facility detects the award of a priori promotion credit to the player, the priori promotion credit having a corresponding quantum and a corresponding play through multiplier (Col 7, Lines 14-26; Col 8, Lines 1-23). The credit administration facility gives a bonus in form of credit to the account credits. Since the account credits must be wagered before they are cashed out, though not specifically cited, it would be obvious to one of ordinary skill in the art that a play through multiplier or requirement is inherent.

**Regarding claims 13, 14, 17, 18, 19, 24, 25, 30, 31, 34, 35, 36, 41, 42** in which the credit administration facility increments a balance of the player's non cashable sub account by the quantum of the priori promotion credit (Figure 2; Col 7, Lines 3-7), and in which the at least one play through sub account for the player includes a play through sub account and a play through achieved sub account (Col 9, Lines 63-67; Col 10, Lines 1-9). It would have been obvious to one of ordinary skill in the art that although the account credit is not split into further sub accounts, it is functionally equivalent as there is no further benefit of the sub accounts other than to keep track of the non cashable credits.

**Regarding claim 15, 32**, in which the credit administration facility is instructable to display a balance of the at least one play through sub account to the player on the display means (Figure 2; Col 7, Lines 3-7).

**Regarding claim 20, 37,** in which the credit administration facility debits the balance of the player's credit account and the balance of the non cashable sub account with the size of the wager and credits these balances with a payout arising from the wager if successful (Col 6, Lines 62-67; Lines 7, Lines 1-7).

**Regarding claim 21, 38,** in which the credit account facility clears the balances of the play through required the play through achieved sub accounts when the size of the wager exceeds the balance of the non cashable sub account. It would have been obvious to one of ordinary skill in the art that the balance of the account credit would be cleared if the wager exceeds the balance since the account credit is debited (Col 6, Lines 62-67; Lines 7, Lines 1-7).

**Regarding claim 22, 39,** in which the credit administration facility enables the player to request a cash out at any time (Col 4, Lines 57-59).

**Regarding claim 23, 40,** in which the credit administration facility automatically determines, in response to the player's cash out request, a balance of the player credit account that is redeemable for monetary value and displays the redeemable balance to the player on the display means (Figure 2; Col 4, Lines 60-67).

**3. Claims 45-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres (U.S. 6712697), in view of Brosnan et al (U.S. 7063617), further in view of Muskin (US 2005/0170883).**

**Regarding claims 45 and 50,** Acres discloses all elements as described above, however Acres seems to lack disclosing a posteriori credit.

4. Brosnan teaches a posteriori credit (Col 11, Lines 65-67; Col 12, Lines 1-16). It would have been obvious to one of ordinary skill in the art to combine the elements of Acres and Brosnan. One would be motivated to do so to provide better excitement and game play to the player. All the claimed elements were known in the prior art and one skilled in the art could have provided a device to provide more excitement to a player by known methods with no change in their respective functions, and the combination would have yielded predictable results. Further more, even though it is well known in the art that player can earn the comps using land based or online casino system, applicant's claim of peer-to-peer is literally interpreted as comps being wager able online or over the internet.

Muskin teaches a method and system of complimentary points that can be used at a land based casino as well as online casino. player can earn and redeem points online or at a land based casino (para 0025), therefore it would have been obvious to ordinary skilled artisan at the time of invention to include comps points wagering and redemption

options to Acres system to give player freedom of usage of their complimentary earn points and rewards.

5. Acres also discloses:

**Regarding claims 46, 51,** wherein winnings arising from wagers made with the any a priori promotion credit contribute to the cashable portion when the first play through requirement is met (Col 7, Lines 14-26; Col 8, Lines 1-23).

**Regarding claims 47, 52,** wherein the any a priori promotion credit does not contribute to the cashable portion at any time (Col 7, Lines 14-26).

**Regarding claim 48, 53,** wherein the any a priori promotion credit progressively contributes to the cashable portion as a function of wagers made by the player on house edge services (Col 7, Lines 14-26).

6. **Regarding claims 49 and 54,** Bronsan teaches a posteriori promotion credit and Acres discloses because these credits must be wagered before they are cashed out, though not specifically cited, it would be obvious to one of ordinary skill in the art that a play through multiplier or requirement is inherent.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MASUD AHMED whose telephone number is (571)270-1315. The examiner can normally be reached on Mon-Fri 10:00am-7:00pm, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571 272 4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. A./  
Examiner, Art Unit 3714

/Peter D. Vo/  
Supervisory Patent Examiner, Art Unit 3714